

CLD-119

February 7, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **17-3524**

KEVIN MCKEITHER, Appellant

VS.

SUPERINTENDENT RETREAT SCI, ET AL.

(E.D. Pa. No. 2-14-cv-01628)

Present: CHAGARES, GREENAWAY, JR., and GREENBERG, Circuit Judges

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1),

in the above-captioned case.

Respectfully,

Clerk

ORDER

A notice of appeal in a civil case in which the United States is not a party must be filed within 30 days of the entry of the order or judgment being appealed. See Fed. R. App. P. 4(a)(1). The time limits in Rule 4(a)(1) are mandatory and jurisdictional. See Bowles v. Russell, 551 U.S. 205, 209 (2007). On September 29, 2017, the District Court entered its order denying Appellant's petition for writ of habeas corpus under 28 U.S.C. § 2254. Appellant's motion for a certificate of appealability, dated and submitted to prison officials on November 8, 2017, was filed more than 30 days after the District Court entered its order. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 270 (1988). There is no basis in the record to extend or reopen the time to appeal. See Fed. R. App. P. 4(a)(5) and 4(a)(6).

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Accordingly, the appeal is dismissed for lack of appellate jurisdiction. As a result, we do not consider the issuance of a certificate of appealability.

By the Court,

s/ Morton I. Greenberg
Circuit Judge

Dated: March 13, 2018
tmm/cc: Kevin McKeither
Jennifer O. Address, Esq.



A True Copy:

Patricia S. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate